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March 27, 2019

BY ECF

Honorable Katherine Polk Failla
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Castillo Marcelino et al. v. 374 Food, Inc., et al.
16 Civ. 6287 (KPF)

Your Honor:

I am an attorney with the office of Michael Faillace & Associates, attorneys for Plaintiff in the above-referenced matter. Plaintiff writes to respond to Defendants' March 26, 2019 and March 19, 2019 letters to the Court.

As to Defendants' March 26, 2019 letter, this office believes, in light of continuing motion practice in this action and anticipated appeals, the parties should explore a potential mutually agreed resolution to this action. A neutral magistrate judge would greatly assist in this task, conserve litigation and judicial resources, and potentially resolve this matter with a minimum of time and expense. Although Defendants appear to predicate any resolution here with this firm's disqualification, we believe this approach is misguided and will inevitably multiply proceedings in this action.

To the extent Defendant seeks to revive the portion of his March 19, 2019 letter requesting a pre-motion conference, Plaintiff opposes it as both untimely and unfounded. As an initial matter, the Court has already decided to hold briefing concerning, among other things, sanctions matters in abeyance while the Court resolves Defendants' motion to disqualify counsel. The Court should also deny Defendants' request for a pre-motion conference on the basis that their stated basis for the motion is frivolous. The crux of Defendants' argument appears to be that, under Rule 3.3(a)(3) of the New York State Rules of Professional Conduct, Plaintiff's counsel has an obligation to inform the Court that the Court made a finding Plaintiff committed perjury. This is circular on its face, and Defendants cite to no authority or case law whatsoever for this proposition. Instead, the proposed motion appears calculated to punish counsel for opposing Defendants' motion to disqualify. The Court should deny Defendants' request.

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Plaintiff thanks the Court for its time and attention to this matter.

Respectfully Submitted,

/s/
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cc: (By ECF)
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